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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/560,686	04/27/2000	H. Robert Tiffany III		4409

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EXAMINER

BARFIELD, ANTHONY DERRELL

ART UNIT

PAPER NUMBER

3636

DATE MAILED: 12/11/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/560,686

Applicant(s)

TIFFANY ET AL.

Examiner

Anthony D Barfield

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Art Unit: 3636

DETAILED ACTION

Response to Amendment

1. In response to applicant's request for consideration of the substitute specification filed 1/2/02, the examiner maintains the position that substitute specification will not be entered because it does not conform to 37 CFR 1.125(b) because: the specification and drawings as originally filed do not support for the cross sectional views of the bench and drawing of a table "having the support members depending angularly from one side of the table". Applicant is reminded that although the original claims eluded to a composite of the supporting members forming an elliptical or circular shape there is no disclosure for the composite showing only **half an ellipse or circle** as depicted in Figures 6 and 7 **versus a full ellipse or circle**. Furthermore there is no support for a table having support members **depending angularly versus vertically** from one side.

Drawings

2. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on 1/2/02 have been disapproved because they introduce new matter into the drawings. 37 CFR 1.121(a)(6) states that no amendment may introduce new matter into the disclosure of an application. The original disclosure does not support the showing of the cross sectional views of Figure 2 and a table "having the support members depending angularly from one side of the table". Applicant is reminded that although the original claims eluded to a composite of the supporting members forming an elliptical or circular shape there is no disclosure for the composite

Art Unit: 3636

showing only **half an ellipse or circle** as depicted in Figures 6 and 7 **versus a full ellipse or circle**. Furthermore there is no support for a table having support members **depending angularly versus vertically** from one side.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "said support member in each rib emanates consistently among the rib units" renders claim 1, unclear and confusing. In claims 13 and 16, the phrase "emanating consistently from either a front or rear" renders the claim unclear and confusing.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1,3-7,10-11 and 16 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Aginar. Aginar shows a furniture piece (i.e., a bench or chair) having a plurality of

Art Unit: 3636

rib units (30-40) each having at least one functional surface such that a composite of each of the at least one functional surface of the plurality of rib units define a functional surface (i.e., the back or the seat) of the furniture piece (see Figs 1,8 and 10). Aginar further shows the use of at least one support member (the front and rear legs) “emanating consistently” from each rib unit, interconnecting means (51,52,54) and spacer means (41-42).

7. Claims 1-16 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Thebaud (‘109). Thebaud shows a furniture piece (10) having a plurality of rib units (12) each having at least one functional surface such that a composite of each of the at least one functional surface of the plurality of rib units define a functional surface (i.e., a table in Figure 1) of the furniture piece (01). Thebaud further shows the use of at least one support member (14) “emanating consistently” from either a front or rear portion thereof, interconnecting means (18) and spacer means (22).

8. Claims 1-5,7,10-11, and 13-16 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Draxler. Draxler shows a furniture piece (i.e., a bench or chair(6)) having a plurality of rib units (30,31) each having at least one functional surface such that a composite of each of the at least one functional surface of the plurality of rib units define a functional surface (i.e., the back or the seat) of the furniture piece (see Figs 1,8 and 10). Draxler further shows the use of at least one support member (13,15) “emanating consistently” from each rib unit, interconnecting means (50) and spacer means (74,62). Draxler further shows that the support members of each rib unit (30,31) are angularly spaced from the first functional member

Art Unit: 3636

independently of the remaining support members, as seen in Figures 1 and 4 in order to form wedge.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aginar.

Aginar shows all of the teachings of the claimed invention except each rib unit made from metal or plastic. It would have been an obvious matter of design choice to modify each rib unit from either metal or plastic, since applicant has not disclosed that a metal or plastic rib solves any stated problem and it appears that the rib, as taught by Aginar, would perform equally well.

11. Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Draxler.

Draxler shows all of the teachings of the claimed invention except each rib unit made from metal or plastic. It would have been an obvious matter of design choice to modify each rib unit from either metal or plastic, since applicant has not disclosed that a metal or plastic rib solves any stated problem and it appears that the rib, as taught by Draxler, would perform equally well.

Art Unit: 3636

Response to Arguments

12. Applicant's arguments filed 9/30/02 have been fully considered but they are not persuasive.

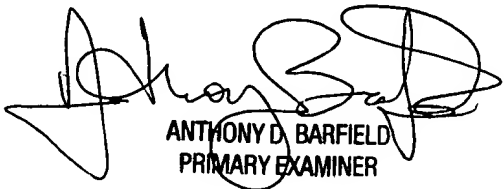
In response to applicant's argument that the Aginar fails to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "support member emanating from **only one side of the furniture piece**") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Furthermore, the examiner is of the opinion that the "support member in each rib emanates consistently among the rib units from either a front or rear portion thereof" **and not with respect to the furniture piece.**

Applicant's arguments do not comply with 37 CFR 1.111© because they do not clearly point out the **structural** patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony D. Barfield whose telephone number is (703) 308-2158.

adb

December 8, 2002


ANTHONY D. BARFIELD
PRIMARY EXAMINER